

OFFICIAL INFORMATIONCONFIDENTIAL**EVIDENCE CODE SECTION 1040
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: October 31, 2019

TO: Honorable Board of Police Commissioners

FROM: Inspector General

SUBJECT: IN-CUSTODY DEATH 067-18 FOR 11/05/19 CLOSED-SESSION
AGENDA

<u>Division</u>	<u>Date</u>	<u>Time</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
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Central	12/19/18	9:27 a.m.		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Thomas, O. /Sgt. I	20 years, 4 months
Popham, C. /PO III	19 years, 11 months
Castro, D. /PO I	10 months

Total Involved Officer(s)

1x Sgt. I
1 x PO III
1 x PO I

<u>Suspect</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
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Husie Mack Outing: Male Black, 46 years of age.

COP Recommendations

Tactics – Tactical Debrief, Sergeant Thomas, along with Officers Popham and Castro.

Non-Lethal Use of Force – In Policy, No Further Action, Sergeant Thomas, along with Officers Popham and Castro.

IG Recommendations

Tactics – Same as COP.

Non-Lethal Use of Force – Same as COP.

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INVESTIGATION

Annotated Force Investigation Division (FID) Incident Summary¹

Synopsis: On December 19, 2018, at approximately 0925 hours, Central Patrol Division uniformed police officers responded to a radio call of a battery in progress. Upon their arrival, the officers observed the suspect lying on the pavement, being restrained by multiple citizens. The officers approached the suspect and utilized body weight and firm grips to place him into custody. The suspect was subsequently transported to a local hospital where he was pronounced dead at 1043 hours.

Investigative Summary

On Wednesday December 19, 2018, at approximately 0915 hours, Victim Liam Balul, 14 years of age, was standing on the Metropolitan Transit Authority (MTA) Red Line subway platform at the Pershing Square Station, located at 500 South Hill Street. Balul was facing the train tracks waiting for the Red Line train to North Hollywood, when he was approached from behind by the suspect, later identified as Husie Mack Outing.²

At 0915:24 hours, security video from the MTA platform recorded Outing push Balul from behind, causing him (Balul) to fall forward onto the train tracks below. Outing immediately jumped down onto the tracks and began repeatedly punching Balul on his face and body. Balul attempted to climb onto the platform to escape the attack, but Outing pulled him down and continued to strike him. According to Balul, he did not know Outing and had no prior contact with him.³

Witness Matthew Palmer observed the incident and ordered Outing to stop assaulting Balul. Palmer reached down and pulled Balul off the tracks and onto the platform. Outing then climbed onto the platform and fled the train station.

Note: Palmer believed there was a third person on the tracks with Balul and Outing. He did not know if this individual was assaulting Balul or

¹ The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

² Outing, male Black, 5 feet 3 inches tall, 142 pounds, with a date of birth of November 4, 1971. Outing was wearing a black shirt, green shorts, black shoes and was carrying a blue manila folder.

³ The Red Line Subway has a contact rail, commonly referred to as the "third rail." The contact rail is adjacent to the tract rail and provides 750 volts of direct electrical current to the train. The train had collector shoes located between the front and rear set of wheels on both sides of the subway train. When one collector shoe is touching the contact rail, all four shoes are energized. Touching the contact rail or collector shoes could cause immediate death by electrocution. Security video captured the next train arriving approximately eighteen seconds after Balul climbed back onto the platform.

attempting to restrain Outing. The identity of this individual was not determined.

Witness Marcus Lovingood reported that he was riding the escalator down toward the train platform at the time of this incident. According to Lovingood, Outing made a loud grunting noise as he ran toward Balul and pushed him from behind onto the train tracks.⁴

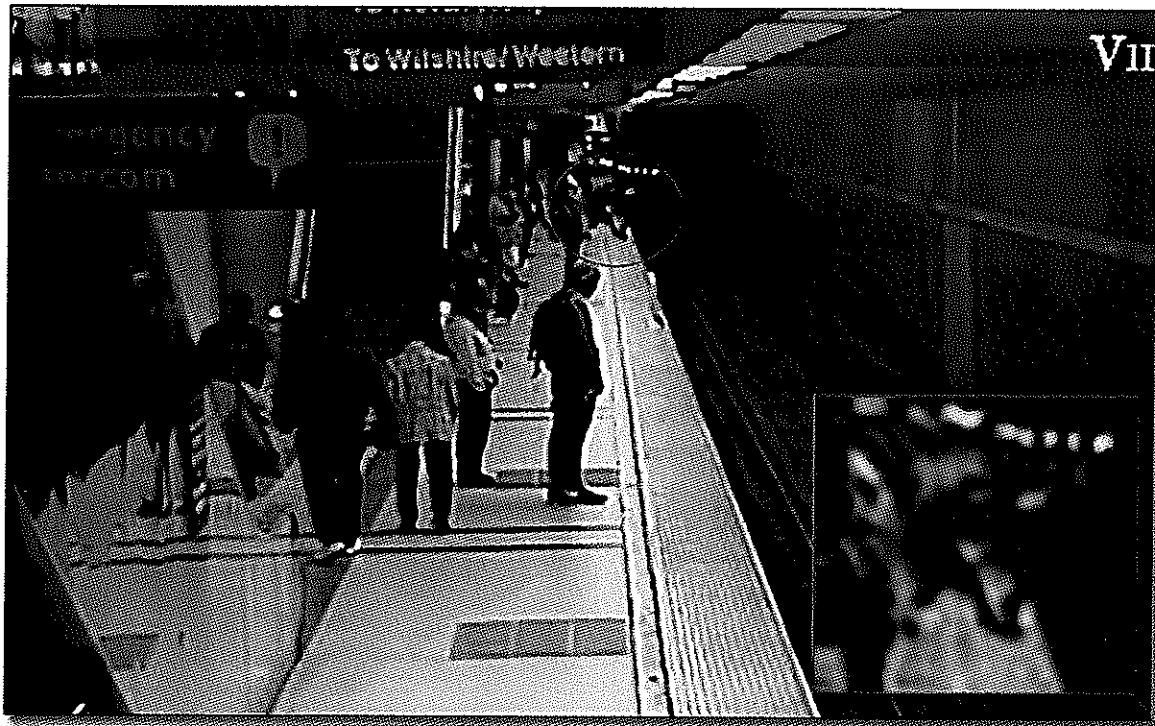


Image of Outing pushing Balul onto the train tracks

At 0916:48 hours, Outing was recorded on MTA security video running up the Pershing Square stairway toward the intersection of 5th Street and Hill Street.

At approximately 0917 hours, two individuals, identified as Elmore Dingle and Sabrina Parke, called 9-1-1 independently to report the incident. Dingle and Parke both advised Communications Division (CD) that they did not witness the incident but were told by a passerby to call the police. According to Parke, the passerby informed her that an unknown individual was pushed onto the train tracks.⁵

⁴ Witness Lovingood called 9-1-1 on his cell phone and reported his observations. The call was received by the California Highway Patrol and assigned Incident No. 181219LA00853. Lovingood was one of several individuals who called 9-1-1 to report this incident.

⁵ When Dingle spoke with CD, he identified himself as Edward, as depicted on the Incident Recall Report for Incident No. 181219001552. Dingle and Parke were not witnesses to the incident and were not formally interviewed for this investigation.

At 0919:33 hours, CD broadcast on Transit Services Division (TSD) Frequency, *"Any Transit unit, unknown trouble, 5th and Hill, 5th and Hill, at the Red Line Pershing Square, unknown person requested PD, unknown circumstances, Code-Three Incident 1552, RD 153."*

At 0919:43 hours, TSD uniformed Police Officer III Lin Hom, Serial No. 31821, and Police Officer II Jordan Durazo, Serial No. 42030, Unit 31FB307, advised CD they would handle the call. During their response, CD upgraded the call to an assault with a deadly weapon and advised the officers that the victim was pushed onto the train tracks by an unknown suspect. Upon their arrival, the officers were advised that Outing had fled the scene. They interviewed the victim and Witness Palmer and completed an Investigative Report for the crime of Attempt Murder.⁶

Meanwhile, Bruce Grimshaw, who was employed as a construction worker, was at an active work site at the southeast corner of 5th Street and Flower Street holding a stop sign in his left hand. Grimshaw was attired in an orange reflective safety vest and hard hat. His job was to direct work trucks into the job site and halt pedestrian traffic as necessary.⁷

According to Grimshaw, Outing approached him from the east as a truck was entering the construction site. He verbally warned Outing that a truck was approaching, then directed his attention back to the truck, which was north of his (Grimshaw's) location. Grimshaw then redirected his attention to Outing, who immediately punched him on the forehead. The impact of the blow caused him to drop down to one knee. As Grimshaw rose to his feet, Outing continued punching him. Grimshaw attempted to defend himself by blocking the punches and grabbed onto Outing's body. During the altercation, Outing and Grimshaw fell to the ground, knocked over some construction signage, and wrestled until Grimshaw was ultimately able to get on top of Outing and hold him down.

Witness Victor Santochi was driving south on Flower Street and observed the assault. Santochi stated Outing threw Grimshaw to the ground and repeatedly punched him in the face. Santochi immediately called 9-1-1 to report the incident.

Witness Ronnel Smith was walking near the intersection of 5th Street and Flower Street when he observed Outing walking erratically while making a growling sound. According to Smith, Outing attacked Grimshaw without provocation and observed him punch and strangle him. Smith believed Outing was under the influence of narcotics and possessed *"super-human strength."* Several construction workers eventually came to Grimshaw's aid and helped restrain Outing. Smith indicated that he left the scene at that point.

⁶ Officers Hom and Durazo were working an overtime detail at TSD. Officer Hom was assigned to Critical Incident Review Division and Officer Durazo to 77th Street Patrol Division. Officers Durazo and Hom were not witnesses to the subsequent Categorical Use of Force and were not interviewed for this investigation.

⁷ Grimshaw, male Hispanic, 6 feet tall, 195 pounds, with a date of birth of September 16, 1971.

Witnesses Juan Ruiz and Rafael Perez were co-workers of Grimshaw.⁸ Ruiz indicated he was seated in the cab of his construction crane north of 5th Street and Flower Street. He observed a physical altercation between Outing and Grimshaw and yelled, "Hey!" which got the attention of Perez, who was working nearby. According to Perez, Grimshaw and Outing were attempting to punch one another and ultimately fell to the ground. Ruiz and Perez then ran toward the altercation to assist Grimshaw.⁹ Perez indicated he arrived first and observed Outing lying on his back with Grimshaw on top of him. After separating them, Perez rolled Outing onto his left side and then to his stomach. Perez laid on top of Outing and positioned his chest and arms against Outing's back. Perez observed Outing grinding his teeth and foaming at the mouth and believed he was under the influence of an unknown substance.

According to Ruiz, he controlled Outing's legs by straddling his left leg and holding Outing's right leg down with his right hand. Ruiz said Outing was very strong and nearly escaped their grasp. He repeatedly told Outing to relax and applied bodyweight to both of Outing's legs to keep him from getting up.¹⁰ While waiting for police to arrive, two unidentified males assisted by grabbing Outing's arms.

Note: Witness Perez only recalled one unidentified male controlling Outing's left arm.

While Outing was being restrained by Perez, Ruiz, and the two unidentified males, Grimshaw stood and recorded a portion of the incident with his cell phone. He recorded the video clip while waiting for the officers to arrive.

Marco Acevedo was a co-worker of Grimshaw and was first alerted to the incident when he observed several individuals running across the street [intersection of 5th Street and Flower Street]. Acevedo did not witness the altercation, and when he arrived at scene, observed Outing lying face down on the ground with Ruiz on top of him. Acevedo observed Outing deliberately rub his face on the pavement multiple times and noted he was "foaming" at the mouth. Based on those observations, he believed Outing was under the influence of narcotics. In an effort to control Outing and prevent him from getting up, Acevedo momentarily placed his right foot on one of Outing's hands and removed his foot within seconds.

Note: According to Witness Walter Newman, he observed three construction workers restraining Outing, who was lying face down on the pavement. Newman heard Outing say, "*Let me up*" as he was being held

⁸ Perez, male Hispanic, 5 feet 8 inches tall, 220 pounds, with a date of birth of October 24, 1973. Ruiz, male Hispanic, 6 feet tall, 247 pounds, with a date of birth of April 29, 1977.

⁹ Ruiz and Perez referred to Bruce Grimshaw by his nickname "Jim" during their interviews.

¹⁰ Ruiz's position was subsequently captured by Officer Castro's BWV, at 0927:56 hours.

down. Newman observed a fourth construction worker, described as a male Hispanic, kick Outing once on the crown of his head.¹¹

According to Grimshaw, Ruiz, Perez and Acevedo, the suspect did not speak during the incident.

At approximately 0925 hours, CD broadcast the following, *"Central units Battery in progress at Flower and 5th, Flower and 5th, at the southeast corner. The suspect is a male Black wearing a scarf on his head and is a possible transient assaulting a Cal Trans worker who is on the ground. Code-Three incident, 1596, RD 152."*

At approximately 0926 hours, Central Patrol Division uniformed Police Officer III Clinton Popham, Serial No. 35172, (driver) and Police Officer I Damien Castro, Serial No. 43443, (passenger) Unit 1Z27, advised CD that they would handle the call and responded Code Three to the location.¹²

At approximately 0927 hours, Central Patrol Division uniformed Sergeant I Oliver Thomas, Serial No. 34998, Unit 1L20, advised CD that he was enroute to the radio call and responded Code Three to the location.¹³ While the officers were enroute to the call, CD broadcast additional information advising that citizens had detained the suspect.

At 0927:40 hours, Officers Popham and Castro arrived at scene, as captured by BWV. According to Officer Popham, as they approached, he observed citizens wearing orange safety vests flagging them down. Officer Castro broadcast that they were Code Six, as Officer Popham parked their police vehicle on the southeast corner of 5th Street and

¹¹ The above statement attributed to Newman was obtained during a non-recorded telephonic conversation with Force Investigation Division (FID) Detective II Alberto Rosa, Serial No. 26598, on January 25, 2019. Newman declined to be formally interviewed at that time. Newman's initial statement regarding this incident was captured on Body Worn Video (BWV) by Central Patrol Division Police Officer II Daniel Torres, Serial No. 39733. During that statement, Newman said Outing was held down by five construction workers and was kicked in the head by a sixth person, who he also believed was a construction worker. The video evidence and witness statements obtained during this investigation do not support Newman's assertion that Outing was kicked or otherwise struck on the head.

¹² Officer Popham, 19 years 11 months with the Department, 50 years of age, 5 feet 11 inches tall and 235 pounds. Officer Castro, 10 months with the Department, 25 years of age, 6 feet 2 inches tall and 220 pounds. The officers were each wearing a ballistic vest, a Department-approved pistol, a TASER, Oleoresin Capsicum Spray (OC), handcuffs, and a collapsible baton. Both officers were also wearing BWV and had a bean bag shotgun stored within their vehicle. Officer Castro had a Hobble Restraint Device (HRD) on his person. Officer Popham's HRD was inside his equipment bag that was stored within their police vehicle. This was their first deployment period working with one another. According to Officer Castro, he and his partner regularly discussed tactics, including the subject of contact and cover. As the officers responded to the radio call, Officer Castro assisted Officer Popham with clearing intersections and read the comments of the radio call out loud.

¹³ Sergeant Thomas, 20 years 4 months with the Department, 48 years of age, 5 feet 9 inches tall and 185 pounds. Sergeant Thomas was wearing a ballistic vest and carried a Department-approved pistol, TASER, handcuffs, and OC spray on his person. He was also equipped with BWV.

Flower Street facing in a southwesterly direction. Upon their arrival, the officers observed Outing lying on his stomach with multiple citizens holding him down. According to Officer Popham, the citizens appeared to be using their body weight to control Outing's movements.¹⁴

As the officers exited their vehicle and approached the scene, their BWVs captured a male voice state, "You guys need to...he's super fucking strong alright." Officer Castro removed his handcuffs and used his left hand to grab Outing's right forearm in preparation to begin handcuffing him. Officer Popham immediately noticed that Outing was sweating profusely and had his hands clenched under his body. Based on his training and experience, he believed Outing might be under the influence of Phencyclidine (PCP) or methamphetamine.

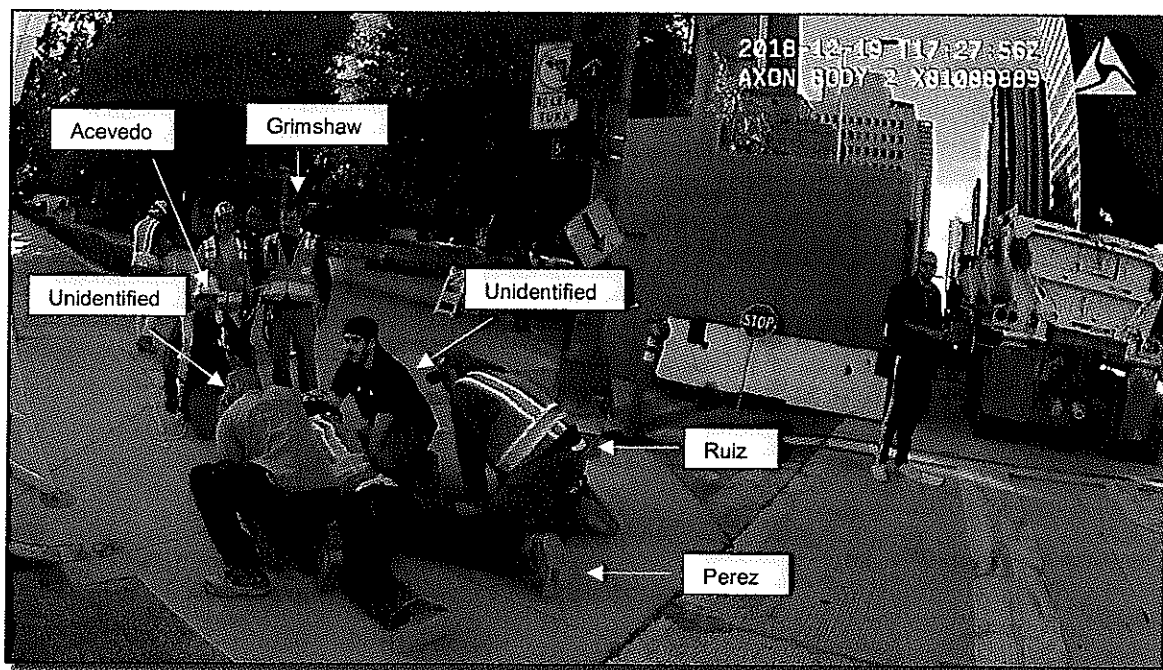
According to Officer Popham, Outing was bleeding from multiple locations on his body and there was blood on the ground. Based on those observations, Officer Popham advised his partner to hold off on handcuffing the suspect and directed the citizens to continue holding him down. Officer Popham broadcast a request for a back-up and then directed Officer Castro to don protective gloves, which he (Castro) did.¹⁵

Note: During the back-up request, Officer Popham misidentified his unit designation as "35". His actual unit designation was 1Z27.

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¹⁴ The time stamp depicted on the officers' BWV was the standard Coordinated Universal Time (UTC) which was eight hours ahead of local time on the date and time of this incident.

¹⁵ The Los Angeles Police Department, Bloodborne Pathogen Exposure Protocol Field Notebook Divider, dated November 2012, described bloodborne pathogens as germs transmitted by exposure to blood or other potentially infectious body fluids. The document states the following: *Latex gloves shall be worn when contact with blood or other potentially infectious body fluids is anticipated and shall be changed after each contact.*



Officer Castro's BWV

Officer Popham ordered Outing to put his arms out to his sides, tapped Outing's upper back with his right index finger, and then repeated the order. Outing did not comply. While standing just north of Outing's head, Officer Popham unholstered his TASER with his left hand and transitioned it into his right hand.¹⁶ He then placed the TASER against Outing's upper back and advised Outing that he would tase him if he moved. Witnesses Perez, Ruiz, and the two unidentified citizens released their grip on Outing at that point and backed away from him.¹⁷

Note: According to Officer Popham, he did not place his TASER against Outing's back until the citizens released Outing and stepped away.

Officer Popham was unsure if Outing comprehended his commands and placed his TASER against Outing's back so he could physically feel the device. Officer Popham explained, "...When people are under the influence of narcotics, especially methamphetamine or PCP, it takes them a little while to figure things out, and they're more tactile, or, you know, they respond more to touch or feel."¹⁸

Officer Popham again ordered Outing to put his arms out to his sides and to spread his legs; however, he did not comply. Outing responded by placing his forearms on the ground and lifting his upper torso off the pavement. In response, Officer Popham

¹⁶ Officer Popham's TASER was worn on the left side of his equipment belt.

¹⁷ Gleaned from Officer Popham's BWV.

¹⁸ Officer Popham's statement, Page 19, Lines 14-18.

placed his left hand on Outing's right shoulder and continued to give him commands to place his arms out to his side and to spread his legs. Officer Popham then placed his left hand in a cupped position on the back of Outing's neck as he laid face down on the pavement.¹⁹

Officer Popham directed Officer Castro to grab Outing's arm and place it behind his back. Officer Castro straddled Outing, placed his left knee against Outing's left lower back area and grabbed his (Outing's) right wrist.²⁰ According to Officer Castro, Outing was very strong. He felt his body tense up and observed foam coming out of his mouth. Officer Castro believed Outing was under the influence of an unknown substance and ordered him to stop tensing up, but he did not comply. While continuing to straddle Outing, Officer Castro removed his left knee from his back, pulled Outing's right hand behind his back and applied a handcuff to his right wrist.²¹

Officer Popham positioned himself on Outing's left side and placed his right knee on Outing's back. Officer Popham believed he might utilize his TASER in drive-stun mode and removed the cartridge from the device.²² Using his right hand, he placed the TASER between Outing's shoulder blades and advised Outing that he was going to tase him. Approximately three seconds later, Officer Popham placed the cartridge back in the TASER and grabbed Outing's left wrist with his left hand. He then momentarily placed his right hand, which was holding the TASER, against the back of Outing's head.²³

Note: Officer Popham did not recall utilizing his bodyweight on Outing or placing his hand on the back of Outing's neck/head.

Officer Popham repositioned himself by removing his right knee from Outing's back and placing both of his knees on the ground. While still holding his TASER in his right hand, Officer Popham attempted unsuccessfully to gain control of Outing's left arm using only his (Popham) left hand. He then momentarily placed his TASER on the ground in front of his (Popham's) right knee, but then immediately picked it back up, because he did not want anyone else to take it.²⁴

¹⁹ Gleaned from Officer Popham's BWV.

²⁰ Gleaned from Officer's Popham and Castro's BWV.

²¹ A review of Grimshaw's cell phone video determined that Officer Castro's knee was on Outing's back for approximately nine seconds.

²² Per the LAPD Use of Force-Tactics Directive, titled Electronic Control Device / TASER, dated July 2018, a Drive-Stun / Direct Stun is defined as the following: *Two contacts on the cartridge or the TASER unit that conduct energy to affect the suspect's sensory nerves causing localized pain. This feature may be used with or without a cartridge in place.*

²³ Gleaned from Grimshaw's cell phone video.

²⁴ Gleaned from Grimshaw's cell phone video and Officer Popham's transcribed statement.

At 0929:17 hours, Sergeant Thomas arrived at scene, observed the officers struggling to handcuff Outing and approached to lend his assistance. As the officers attempted to complete the handcuffing of Outing's left wrist, Officer Popham set his TASER on the ground between his knees, while he placed Outing's left arm behind his back. He retrieved it approximately seven to eight seconds later once Outing was handcuffed.²⁵

According to Sergeant Thomas, the officers were having difficulty handcuffing Outing's left wrist and he was concerned the incident would escalate if the suspect was not immediately taken into custody. In an effort to assist, Sergeant Thomas grabbed Outing's right arm and pushed it closer to his left arm so that Officer Castro could complete handcuffing process.²⁶

Note: Officer Popham had no independent recollection of placing his TASER on the ground a second time.

At 0929:35 hours, Officer Popham broadcast a Code-Four, advised the responding units that the suspect was in custody and then holstered his TASER. Once Outing was handcuffed, Officer Castro searched Outing's waistband area for weapons and attempted to assist him to a standing position. When Outing appeared unable to stand on his own, Officer Castro and Sergeant Thomas laid him back down on the ground and placed him onto his left side (left lateral recumbent position).

Note: During the Code-Four broadcast, Officer Popham again misidentified his unit designation as "35" [presumably referring to Unit 1A35].

At 0929:51 hours, Officer Popham repeated his Code-Four broadcast and requested a Rescue Ambulance (RA) for both Outing and Grimshaw. Officer Castro then completed a custodial search of Outing's person and placed his personal belongings into a plastic bag. While waiting for the RA, Officers Popham and Castro attempted to communicate with Outing, but he was unresponsive to their questions. The officers also attempted to keep Outing on his left side, but he continued to roll from side to side on the sidewalk.

At 0935:00 hours, the officers considered placing Outing into their police vehicle, but he (Outing) was unable to stand on his own. Sergeant Thomas directed the officers to leave Outing on the pavement, because he was concerned that if the officers attempted to move him, they might injure themselves. As Outing continued to roll back and forth, Officer Castro tried to maintain Outing's position on one side or the another.²⁷

²⁵ Gleaned from Officer Castro's BWV and Grimshaw's cell phone video. The investigation determined that Officer Popham's TASER was lying on the ground for approximately seven to eight seconds.

²⁶ The investigation determined that Officer Popham did not activate his TASER during this incident.

²⁷ Gleaned from BWV.

At approximately 0932 hours, LAFD Engine No. 3, staffed by Firefighter/Emergency Medical Technicians (FF/EMT) Travis Poole, Joshua Kiss, and Garma Kama, and Firefighter/Paramedic (FF/PM) Harry Peterson, Engineer Matthew Hennessey and Captain Hugo Chacon, arrived at scene and rendered aid to Grimshaw.

At approximately 0940 hours, LAFD RA No. 3, staffed by FF/PMs Fernando Linares and Stephen Kehoe arrived at scene and rendered aid to Outing. At Kehoe's request, Officer Popham adjusted Outing's handcuffs and secured his arms to the rails of the gurney. Outing was placed into the RA in preparation for transport to Los Angeles County, University of Southern California Medical Center (LAC+USC) for further treatment.

While at scene, preparations were made by Central Patrol Division uniformed Sergeant I Arturo Castellanos, Serial No 36973, to investigate this incident as a Non-Categorical use of force. After briefing Sergeant Castellanos, Officers Popham and Castro left the scene and went to Central Station to dock their BWV cameras and begin their reports. Sergeant Thomas directed Central Patrol Division uniformed Police Officers II Christopher Gelvin, Serial No. 42397, and Daniel Torres, Serial No. 39733, Unit 1A85, to escort Outing to the hospital. Officer Gelvin entered the RA with Outing, while Officer Torres prepared to follow in their police vehicle.

According to FF/PM Kehoe, just prior to leaving the scene, he noted that Outing's blood pressure had dropped and that he had gone into cardiac arrest. Los Angeles Fire Department personnel delayed transporting Outing and began administering cardiopulmonary resuscitation (CPR) at 0952:18 hours. Shortly thereafter, Officer Gelvin exited the RA to give rescue personnel additional space to provide medical treatment to Outing. As Officer Gelvin exited the RA, he requested LAFD personnel notify him prior to their departure, so he could ride with them to the hospital.

After receiving an update by Officer Gelvin as to Outing's condition, Sergeant Thomas called the Central Patrol Division Watch Commander, Lieutenant I Yasir Gillani, Serial No. 35215, and advised him of Outing's status.²⁸ In anticipation of this incident possibly becoming a Categorical Use of Force, Lieutenant Gillani immediately caused Officers Popham and Castro to be separated and monitored pending the outcome of Outing's medical treatment.

Note: Lieutenant Gillani believed he was notified telephonically by Sergeant Castellanos.

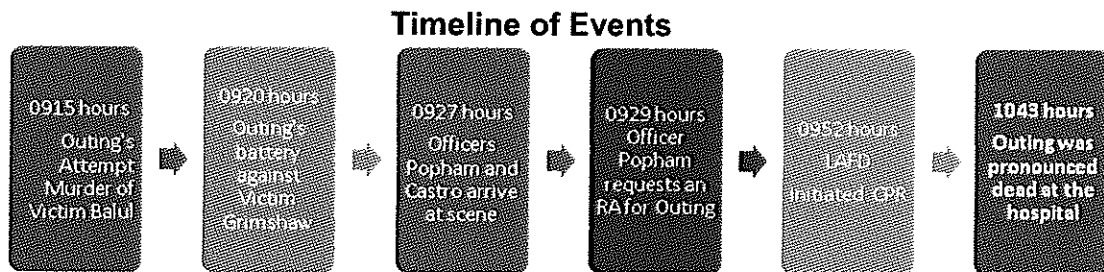
Lieutenant Gillani responded to the scene and arrived at approximately 1010 hours. Upon learning that Sergeant Thomas was also involved in the use of force, Lieutenant Gillani ensured that he too was separated and monitored.

²⁸ Based on a review of Officer Gelvin's BWV, this phone contact was initiated at approximately 0955 hours.

At approximately 1023 hours, FF/EMT Poole (driver) and FF/PMs Linares and Kehoe transported Outing to the closest medical facility, which was Good Samaritan Hospital, where he was pronounced dead shortly upon arrival by Doctor Veronica Vasquez at 1043 hours.

Note: When the RA departed the crime scene, they inadvertently left without Officer Gelvin. Lieutenant Gillani directed Central Patrol Division uniformed Police Officer III Denny Leopoldo, Serial No. 25650, and Police Officer II Edgar Soto, Serial No. 37059, Unit 1A29, to respond to Good Samaritan Hospital. Officer Leopoldo notified Sergeant Thomas when Outing was pronounced dead.

According to FF/EMTs Poole and Linares, a hospital security guard removed Outing's handcuffs once they arrived at the hospital. According to Linares, this did not create an issue in transferring care to the hospital staff.



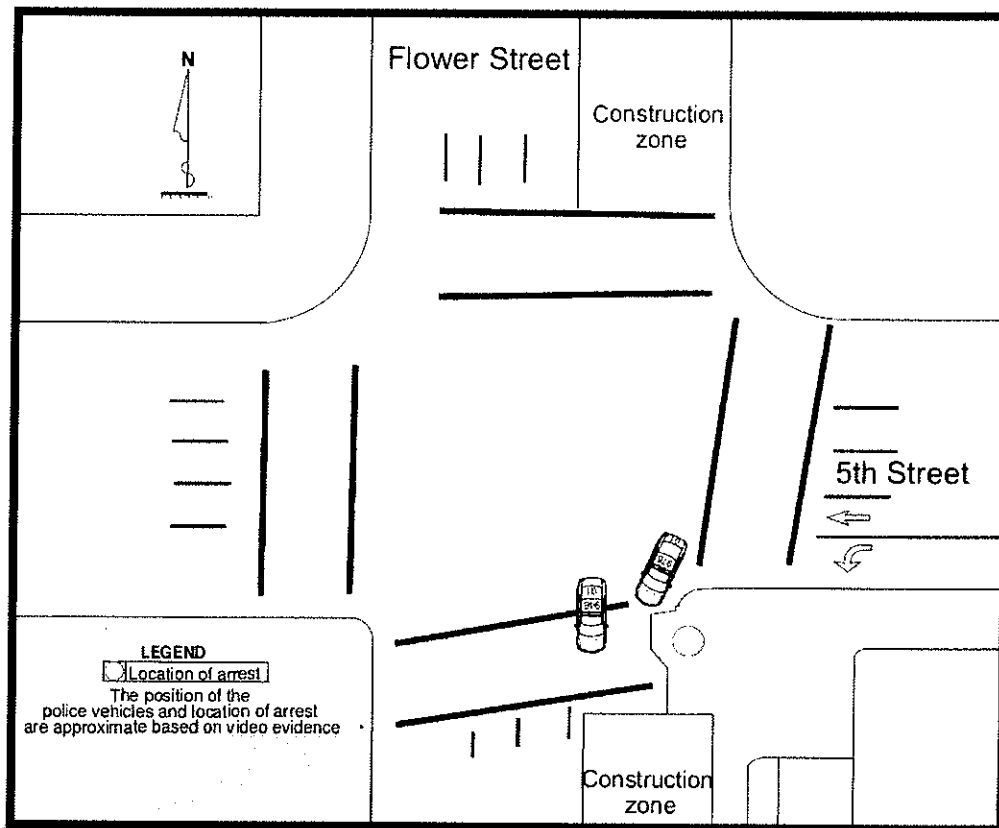
At approximately 1125 hours, the Department Operations Center (DOC) was notified of the Categorical Use of Force. At approximately 1210 hours, Detective III James Goossen, Serial No. 26464, was the first representative from Force Investigation Division (FID) to arrive at scene.

Force Investigation Division Detective Rosa reviewed the documents regarding the separation, monitoring, and admonitions not to discuss the incident prior to being interviewed by FID investigators.

Scene Description

This incident occurred on the southeast corner of Flower Street and 5th Street, in the City of Los Angeles. Flower Street was a one-way street, orientated in a north/south direction, with four lanes dedicated for southbound traffic. Fifth Street was also a one-way street, orientated in an east/west direction, with five lanes dedicated for westbound traffic. At the time of the incident, the number one lane of Flower Street was fenced off to vehicle and pedestrian traffic due to road construction.

The surrounding area consisted of various high-rise commercial buildings. This incident occurred during daylight at approximately 0927 hours. The environmental conditions were dry and sunny with clear skies.

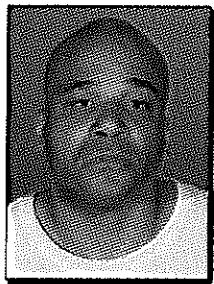


Southeast corner of Flower Street and 5th Street

Canvass for Witnesses

On December 19, 2018, Central Patrol Division and FID personnel conducted a canvass of the area for witnesses to the incident. Unless otherwise noted, the statements of all witnesses were recorded and transcribed and are contained in this report.

Suspect Information



Husie Mack Outing was a male Black with a shaved head and brown eyes. At the time of the incident, he was five feet three inches tall, weighed 142 pounds and was 46 years old. He had a date of birth of November 4, 1971. Outing was identified by Criminal Information Index (CII) No. A23286935 and had an extensive criminal history dating back to 1991. He had four prior felony convictions (one of which was for murder) and one prior misdemeanor conviction. Outing was on Post Release Community Supervision (PRCS) for a narcotics offense at the time of this incident. He had no prior contacts with the Department's Mental Evaluation Unit.

In relation to this incident, Los Angeles Police Department Investigative Reports were completed for the crimes committed against Balul and Grimshaw. Both reports named Outing as the suspect and were dispositioned with a case status of Cleared Other.

Injuries

At approximately 0920 hours, LAFD Engine No. 9, staffed by FF/EMTs, Daniel Berrera and Brooks Gary, along with Captain Samuel Galvan and Engineer Leonardo Navarro, received an alarm to respond to the intersection of 5th Street and Hill Street. At approximately 0925 hours, they arrived at scene and rendered aid to Victim Balul, who sustained lacerations and abrasions to his face and torso.

Note: Photographs of Balul's injuries were stored under D No. 672500.

At approximately 0932 hours, the LAFD received a second alarm to respond to the intersection of 5th Street and Flower Street. At approximately 0932 hours, LAFD Engine No. 3 arrived at scene to render aid to Victim Grimshaw; however, he declined medical treatment.

Later that day, Grimshaw sought medical attention at Pro Active Work Health Services, located at 132 South Beaudry Street. During his examination, it was determined he had sustained a sprain to his right shoulder, contusions to his left knee, head, right shoulder and right knee, and abrasions to his knees and head.

Note: Photographs of Grimshaw's injuries were stored under D Nos 312887 and 0786874.

At approximately 0940 hours, LAFD RA No. 3 arrived at scene and rendered medical aid to Outing. He was ultimately transported to Good Samaritan Hospital where he was pronounced dead by Doctor Vasquez at 1043 hours.

Evidence

As a result of this investigation, 16 items of evidence were recovered and booked under DR No. 18-01-30777. The items included were a blue manila folder Outing was holding at the time of the incident, various types of identification cards in his name, and the jewelry he was wearing when he was taken into custody. Also booked was a Coroner's kit and a blood stain card.

Coroner's Investigation

On December 19, 2018, at 1358 hours, FID Detective II Brad Michel, Serial No. 36782, notified the Los Angeles County Department of Medical Examiner-Coroner's Office of Outing's death.

On December 20, 2018, at approximately 1124 hours, Los Angeles County Forensic Science Center (LACFSC) Attendant Jennifer Welsh transported Outing's remains to LACFSC in preparation for his post-mortem examination. Coroner's Investigator Laura Diaz examined Outing, collected his clothing and obtained hair and fingernail samples.

Autopsy

On December 22, 2018, at approximately 0900 hours, Deputy Medical Examiner Doctor Zuhha Ashraf performed a post-mortem examination of Outing's remains. Force Investigation Division Detectives II Blair Grabiak, Serial No. 26647, and Sergeant II Richard Brunson, Serial No. 32828, along with Los Angeles County, District Attorney's Office, Justice System Integrity Division (JSID), Senior Investigator Linnear Lawless were present during the examination.

The autopsy revealed that Outing had multiple abrasions and contusions on his head as well as his upper and lower extremities. Internally, there was soft tissue hemorrhage of the right neck and back of the left shoulder. Outing had an enlarged heart and mild coronary artery atherosclerosis. Hemorrhage of the anterior chest wall and soft tissue of the pericardial sac, as well as hematomas of the liver were present, and were attributed to resuscitation efforts. Doctor Ashraf classified the manner of death as undetermined.

Toxicology

On March 1, 2019, a Laboratory Analysis Summary Report was reviewed and approved by Los Angeles County Department of Medical Examiner-Coroner, Supervising Criminalist I Sarah Buxton de Quintana. The analysis results documented Outing tested positive for Marijuana. Additional testing for novel psychoactive substances, including synthetic cannabinoids and synthetic cathinones (bath salts), were negative.

Visual Documentation

Digital In-Car Video System (DICVS)

Multiple police vehicles equipped with DICV responded to this incident, resulting in five videos. The videos were reviewed in their entirety by FID investigators and were found to be of no evidentiary value, as they did not capture the use of force or the moments preceding it.

Body Worn Video (BWV)

There were ten police officers who activated their BWV at some point during this incident. Those videos were reviewed in their entirety by FID investigators. The following is a synopsis of those BWVs that had significant evidentiary value:

- Officer Popham activated his BWV at approximately 0926 hours, and Officer Castro at approximately 0927 hours. Their BWVs captured their response to the scene as well as the use of force.
- Sergeant Thomas activated his BWV at approximately 0927 hours. His BWV captured his response to the scene, a portion of the use of force, and his command and control efforts following the incident.
- Officer Gelvin activated his BWV at approximately 0938 hours. His BWV captured his response to the scene as well as medical treatment provided to Outing by LAFD personnel inside RA No. 3.

Social Media

Personnel assigned to FID's Cyber Unit monitored social media sites from the date of the incident until the submission of this investigation. No additional evidence, information or witnesses were identified via social media.

Other Department Video

None

Outside Video

Force Investigation Division identified and obtained two MTA security videos, one security video from the business located at 555 South Flower Street and two cell phone videos. The videos were filed under Technical Investigation Division (TID) File Nos: 659476 – Security video from MTA Camera No. 22 captured Outing push Balul onto the train tracks.

659477 – Security video from MTA Camera No. 28 captured Outing fleeing the scene after the assault on Balul and running up the stairway toward 5th Street and Hill Street.

733895 – Security video from 555 South Flower Street depicting emergency personnel arriving at scene.

729425 – Cell phone video captured by Bruce Grimshaw.

659485 – Cell phone video captured by Gabe Moorman.

Photographs

The photographs of Balul and his related injuries were stored under Control No. 0672500. The photographs of the involved officers, Grimshaw, Outing and the crime scene, that were taken in furtherance of the initial Non-Categorical use of force investigation, were stored under Control No. 312887.

Technical Investigation Division Photographers III Marie Sallaberry, Serial No. N3637, and Gary Glade, Serial No. V9606, responded to the scene and took photographs of the location where the use force occurred. Also photographed were the victims, witnesses, Outing, and the associated evidence. The photographs were stored under Control Nos. 0786873, 0786874, and 312888.

Witness Gabe Moorman took photographs of the scene with his cell phone. Those photographs were stored under Control No. 0787642.

Notifications

On December 19, 2018, at approximately 1115 hours, the DOC was notified of the In-Custody Death and the details of the subsequent notifications are attached.

Personnel at Scene

Detective Goossen was the first representative from FID to arrive at scene at approximately 1210 hours. Crime scene logs documenting additional personnel at the location are contained within the FID case file and are available for review.

Communications

A copy of the CD Incident Recall printouts related to Incident Nos. 181219001552 and 181219001596, are on file at FID. Digital recordings of Central Division and TSD's base frequency as well as 911 calls related to these incidents are also stored at FID.

Justice System Integrity Division

This case met the criteria for presentation to the Los Angeles County District Attorney's Justice System Integrity Division and will be presented shortly after completion of this administrative report.

Investigators' Notes

1. The Los Angeles Police Department, Sergeant's Daily Report, completed by Central Area Detective II James Verner, Serial No. 33441, was incorrectly dated December 18, 2019. The correct date of occurrence was December 19, 2018.
2. During the course of this investigation, the following employees of the Skanska Construction Company were identified as potential witnesses in this investigation: Mike Sanford, Israel Carrillo, Jose Muhr, David Locker, Dave Westlake, and Heber Villella. Detective Rosa spoke with Attorney Edward Ward, who represented the construction company, to schedule interviews with these individuals. Ward said he would consider the matter and contact Detective Rosa with further information. As of the date of this report, Ward has yet to contact Detective Rosa to schedule those interviews.
3. Officer Popham's BWV captured three unidentified males, two of which were initially involved in restraining Outing, holding cell phones, and possibly recording a portion of the incident. The identity of those individuals was not determined, and the recordings were not recovered.

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CHIEF OF POLICE REPORT²⁹

Chief of Police Findings

Tactics – Tactical Debrief, Sergeant Thomas, along with Officers Popham and Castro.

Drawing/Exhibiting – Does Not Apply.

Non-Lethal Use of Force – In Policy, No Further Action, Sergeant Thomas, along with Officers Popham and Castro.

Chief of Police Analysis

Detention

- The officers responded to a radio call of a Battery in Progress. Upon arrival, officers observed the suspect being held down by several witnesses at the location and were told by a citizen that the suspect had attacked someone. The witnesses holding the suspect advised the officers that the suspect was unusually strong. The officers observed the suspect to be profusely sweating, with clenched fists, rigid muscle tone, visible injuries and he appeared to be in a drug-induced haze. In addition to their battery investigation, the officers formed the opinion based on their observations that the suspect was under the influence of a controlled substance and required medical attention. The officers attempted to detain the suspect; however, he did not comply with the officers' verbal commands resulting in the utilization of non-lethal force to detain and place handcuffs on the suspect. The officers' actions were appropriate and within Department policies and procedures.

Tactics

- Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."*

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

²⁹ The information provided in this section summarizes the analysis and findings set forth in the Chief of Police's report for this case.

Tactical De-Escalation

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

In this case, the officers were attempting to detain a violent battery suspect whom they believed to be possibly under the influence of a controlled substance. The investigation noted that the officers had been assigned to work together for less than one month. During their time together, they had discussed tactics including Contact and Cover responsibilities. Prior to responding to this incident, the officers discussed tactics and debriefed the traffic stop they had just completed. Although the location of their Code Three radio call was close in proximity to their starting point, the officers continually communicated while enroute to the radio call. Officer Castro read the comments of the radio call aloud and assisted with clearing intersections. Upon arrival, Officer Popham directed Officer Castro to place them Code Six, ensuring additional resources had knowledge of their location. The officers then utilized several tactical de-escalation techniques including planning, assessment, time, other resources, and lines of communication.

Having worked the downtown area for several years, Officer Popham immediately recognized that the suspect was exhibiting the signs and symptomology of someone that was possibly under the influence of a controlled substance. The officers assessed the situation and utilized lines of communication between themselves and the witnesses by directing them to continue to hold the suspect in place, which allowed the officers additional time to request other resources, don personal protective equipment and formulate a plan to take the suspect safely into custody.

During the incident, the officers communicated with the suspect by giving him clear verbal instructions to comply with their directions. Additionally, in hopes of gaining the suspect's compliance, Officer Popham utilized a tactile means of communication

by placing his TASER between the suspect's shoulder blades while providing the suspect with a warning and clear orders to spread his limbs and lay down. When the suspect failed to comply, the officers feared he would get to his feet and continue his attack on the citizens or the officers. The officers assessed the suspect's actions and determined the need to quickly contain the suspect in order to de-escalate the situation.

The officers did not resort to using less-lethal force to take the suspect into custody despite reports that he was violent and extremely strong and seeing that it took four larger-statured male witnesses to control the suspect. By immediately controlling the suspect through the use of non-lethal force options, the officers demonstrated tremendous restraint to effect the arrest of a violent suspect that was obviously in an altered state.

Debriefing Points

- **Maintaining Control of TASER**

The TASER shall be carried in a Department approved holster on the support side of the duty belt in either a cross draw or support side draw position (Los Angeles Police Department Use of Force - Tactics Directive No. 4.5, Electronic Control Device - TASER, July 2018).

According to Officer Popham, he placed his TASER on the ground twice while assisting Officer Castro in physically controlling Outing.

Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this case, as Officer Popham maintained a firm grip on Outing, he did not secure his TASER in its canvas drop-leg holster. In order to control Outing, Officer Popham momentarily placed the TASER on the ground next to himself and then had the state of mind to quickly recover the TASER once he was able to gain control of Outing's left arm. Sergeant Thomas arrived and assisted Officers Popham and Castro by lifting Outing's right arm and guiding it toward his left arm to facilitate Outing's handcuffing. Officer Popham then placed his TASER on the ground between his knees for approximately eight seconds while he placed Outing's left arm behind Outing's back in order to handcuff him. According to Officer Popham, while he held the TASER in his right hand, he could not secure it in its holster, which was on the left side of his duty belt because he would have been required to transition the TASER to his left hand to do so. Doing so, would have required him to let go of Outing's left wrist. The UOFRB evaluated the two circumstances of the TASER being placed on the ground and opined that during each occurrence it was

momentary, occurred during times that Outing was well-controlled and necessary in order for Officer Popham to assist in controlling Outing.

Officer Popham is reminded of the importance of making every attempt to maintain control of his equipment, as it increases the likelihood of tactical success during incidents such as this.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that while identified as an area for improvement, Officer Popham's actions were reasonable and not a substantial deviation from approved Department tactical training.

In an effort to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Additional Tactical Debrief Topics

- **Tactical Communication**

The investigation revealed that Officer Popham broadcast the incorrect unit designation twice while at scene. The Chief noted that Officer Popham is regularly assigned to work patrol in an "A car," but on the day of the incident had volunteered to work a crime suppression detail. While it is understandable that under stress, officers resort to what their regularly assigned unit designations are, Officer Popham is reminded of the importance of broadcasting the correct unit designation in order to avoid confusion or delay to responding units. The Chief directed this to be a topic of discussion during the Tactical Debrief.

- **Proper Use of Taser in Drive-Stun Mode**

The investigation revealed that Officer Popham removed the cartridge from the TASER prior to placing it on Outing's back. Though Officer Popham did not activate the TASER, he is reminded that to maximize the effectiveness of the TASER, the cartridge should remain attached to the TASER so that the recommended three-point drive stun can be utilized. In order to conduct this type of drive-stun, the officer must leave the cartridge in place, leave room for the TASER cartridge blast doors to open, then activate the TASER and move the TASER to an area of the body away from the probe impact site to maximize the effect of the Neural Muscular Incapacitation (NMI). In all other circumstances, TASER applications are most effective when discharged in probe mode from a distance of seven to 15 feet as the spread of the probe darts maximizes the effectiveness of NMI. In an effort to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Arrestee Medical Treatment**

The investigation revealed that Officer Popham immediately requested a RA for Outing upon taking him into custody and then requested a second RA for Grimshaw once he realized that he was injured. Officer Popham directed the first arriving LAFD personnel to treat Grimshaw because he believed Grimshaw's treatment would be quick. LAFD personnel conducted a brief visual assessment on Outing prior to the arrival of the RA and noted Outing was breathing, moving around and making eye contact. LAFD personnel have advanced medical training and more experience in dealing with the analysis and treatment of persons needing medical treatment than officers. In this case, LAFD personnel were able to make their own observations of Outing and ultimately have the responsibility to determine who they should treat and in what order. Nonetheless, the Chief would have preferred that the officers refrain from providing direction to LAFD personnel as to who should be treated first. Rather than provide direction, officers are reminded that when feasible, it is important to communicate relevant observations (i.e.: foaming at the mouth, verbal unresponsiveness, and possible overdose), so that all involved City personnel have an optimal understanding and situational awareness of the incident. The Chief directed this to be a topic of discussion during the Tactical Debrief.

Command and Control

- *Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).

As the senior officer on scene, Officer Popham took an active leadership role in implementing a plan of action. He communicated throughout the tactical incident with the witnesses, Officer Castro and Sergeant Thomas upon his arrival. Officer Popham's scene management allowed him to request additional resources before

initiating contact with the suspect. Upon observing blood on the suspect and the area around the suspect, Officer Popham immediately directed Officer Castro to don protective gloves to ensure the safety and wellness of his partner. Officer Popham directed his partner to quickly engage the suspect when it appeared that the suspect may be attempting to stand up. In line with the Department's guiding value of reverence for human life, Officer Popham requested an RA for both the suspect and the victim as soon as possible and provided direction and assistance to his partner to ensure the suspect was placed on his side pending medical treatment by LAFD.

Officer Popham's demonstration of Command and Control met the Chief's expectations of a senior officer at the scene of a critical incident.

Although Sergeant Thomas was cancelled from the radio call, he continued his response in an effort to provide supervisory oversight. Upon arrival at scene, Sergeant Thomas immediately recognized that his assistance was necessary to prevent the situation from escalating. Sergeant Thomas' decision to become involved in the non-lethal Use of Force was sound, swift and minimal. Once the suspect was handcuffed, Sergeant Thomas transitioned back to a supervisory role and provided oversight and direction. He began directing the officers to ensure the well-being of the suspect. Sergeant Thomas additionally recognized that he and the officers were involved in a use of force and that he could not conduct the investigation as an involved officer. Sergeant Thomas then requested an additional supervisor to respond to complete the investigation. As additional personnel arrived, Sergeant Thomas delegated ancillary duties and ensured the scene was canvassed and controlled.

Lieutenant Gillani responded to the scene and assumed the role of IC. He ensured the substantially involved personnel were separated, admonished and monitored and made timely and appropriate notifications once it was determined that the incident was a Categorical Use of Force.

The actions of Lieutenant Gillani and Sergeant Thomas were consistent with Department supervisory training and met the Chief's expectations of field supervisors during a critical incident.

Tactical Debrief

- In conducting an objective assessment of this case, the UOFRB determined, and the Chief concurred that Sergeant Thomas, along with Officers Popham and Castro's tactics did not substantially deviate from approved Department tactical training.

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, the Chief directed that Sergeant Thomas, along with Officers Popham and Castro attend a Tactical Debrief and that the specific identified topics are discussed.

Note: Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

General Training Update (GTU)

- On January 28, 2019, Sergeant Thomas, along with Officers Popham, and Castro, attended a GTU. In addition to the mandatory topics, the officers received training on In-Custody Deaths.

Use of Force – General

- *It is the policy of this Department that personnel may use only that force which is “objectively reasonable” to:*
 - *Defend themselves;*
 - *Defend others;*
 - *Effect an arrest or detention;*
 - *Prevent escape; or,*
 - *Overcome resistance*

The Department examines reasonableness using Graham v. Connor and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*

- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
- *The environmental factors and/or other exigent circumstances. (Los Angeles Police Department Manual, Volume 1, Section 556.10)*

Non-Lethal Use of Force³⁰

- *It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*
 - *Defend themselves;*
 - *Defend others;*
 - *Effect an arrest or detention;*
 - *Prevent escape; or,*
 - *Overcome resistance (Los Angeles Police Department Manual, Volume 1, Section 556.10).*
- **Officer Popham – Firm Grip, Physical Force, and Bodyweight.**

According to Officer Popham, he repeatedly ordered Outing to put his arms out to his side and spread his legs. Outing did not comply and instead placed his forearms on the ground and lifted his upper torso off the pavement. Officer Popham placed the TASER on Outing's back and ordered him not to get up or he would be tased. Officer Popham then utilized a firm grip to grab Outing's left arm and directed Officer Castro to grab Outing's right arm and place it behind his back. Officer Popham, positioned himself on Outing's left side and placed his right knee on Outing's upper back to prevent him from escaping. While still holding onto the TASER in his right hand, Officer Popham then momentarily utilized his right palm to apply bodyweight to the back of Outing's head to keep him pinned down.

Officer Popham recalled, "...when they got off of him and my partner's putting the gloves on, he kind of sat up a little bit with his forearms, and I think that's when I put the Taser, like, "Don't move. I will tase you. Don't get up. Spread your arms. Spread your legs."³¹

³⁰ Los Angeles Police Department Manual, Volume 1, Section 556.10.

³¹ Officer Popham, 1st Interview, Page 22, Lines 13-18.

"I grabbed the left arm. He was not complying with our commands".³²

"I used my left hand to move his left arm behind his back."³³

"...we used our bodyweight to hold him on the ground to prevent him from getting up."³⁴

When asked by FID investigators to clarify Officer Popham's use of body weight and physical force, Officer Popham responded:

FID: *"Is there a reason why you may have placed your right knee on the suspect's back at all?"*

Officer Popham: *"I only could give you my opinion why I would have done that. It's basically to use my bodyweight to pin him to the ground to prevent him from getting up and further escalating the situation."³⁵*

FID: *"Your right hand on the back of the suspect's head...can you give us your opinion why you would have done that?"*

Officer Popham: *"It's the same reason why I would have put my knee in the middle of his back and use my bodyweight just to keep him pinned down."³⁶*

FID: *"...there's twice where you placed your hands on the suspect... in the back of his neck. And the reason why you would have done that in your opinion?"*

Officer Popham: *"...to keep control of him to prevent him from getting up and causing physical harm or violence."³⁷*

- **Officer Castro – Firm Grip, Physical Force, and Bodyweight.**

According to Officer Castro, he positioned himself behind Outing and then utilized a firm grip on Outing's right arm and attempted to move his arm behind his back. Officer Castro noted that Outing was tensing up, really strong and had foam coming out of his mouth. Based on these observations, Officer Castro formed the opinion that Outing was possibly under the influence of something. Officer Castro ordered

³² Officer Popham, 1st Interview, Page 9, Lines 23-24.

³³ Officer Popham, 1st Interview, Page 21, Lines 18-19.

³⁴ Officer Popham, 1st Interview, Page 43, Lines 20-22.

³⁵ Officer Popham, 2nd Interview, Page 6, Lines 8-12.

³⁶ Officer Popham, 2nd Interview, Page 8, Lines 6-9.

³⁷ Officer Popham, 2nd Interview, Page 8, Lines 24-25, and Page 9, Line 1.

Outing to, "Stop tensing up," but Outing did not comply or respond. Officer Castro utilized physical force to pull Outing's right arm from underneath Outing and placed it behind his back. Officer Castro then applied a handcuff to his right wrist.

Officer Castro placed his left knee against Outing's lower back and utilized his body weight to prevent Outing from getting up.

Officer Castro recalled, *"I got up behind the subject, tried to grab his arm, his right arm. As I was trying to get his right arm, he was really, he was tensing up. Really strong. Appeared to be that he was under the influence of something. I noticed foam coming out of his mouth. Did my best to get the handcuff on. Got it on one of the – on his right arm."*³⁸

- **Sergeant Thomas** – Firm grip and physical force right arm.

According to Sergeant Thomas, he observed that the officers had one handcuff on Outing's wrist and realized that they needed some assistance in handcuffing him. Sergeant Thomas, concerned that the incident would escalate if Outing was not immediately taken into custody, utilized a firm grip and physical force to push Outing's right arm closer to his left arm to assist the officers with handcuffing Outing's left wrist.

Sergeant Thomas recalled, *"...they had one handcuff on. Due to the call, the nature of the call and the struggling and so forth I -- so I pushed closer and realized that they need some assistance in handcuffing the gentlemen because they were not able to handcuff him on their own."*³⁹

*"...they only had one handcuff on. They were still struggling, so I grabbed his right arm and kind of pushed it towards the left arm, so that way they could handcuff him, in which they did. I don't want things to get out of hand, knowing this -- knowing this guy had already been in an altercation with the construction worker."*⁴⁰

In this case, the UOFRB conducted a thorough review and analysis of the investigation and circumstances of the incident in determining the reasonableness of Sergeant Thomas's and Officers Popham and Castro's use of non-lethal force. The UOFRB noted that the incident involved a suspect who had already physically assaulted a victim and four witnesses had to physically restrain him until police officers arrived. Both officers used minimal force on the suspect in their attempts to handcuff and control the suspect. The officers continued to verbalize commands in an attempt to elicit cooperation and voluntary compliance throughout the incident.

³⁸ Officer Castro, Page 6, Lines 12-18.

³⁹ Sergeant Thomas, Page 7, Lines 1-5

⁴⁰ Sergeant Thomas, Page 7, Lines 8-15.

During the handcuffing of the suspect, the officers maintained control of the suspect's arms and used the minimal amount of force necessary to handcuff him and avoid injury. Officer Popham exhibited his TASER to the suspect in an effort to gain compliance but demonstrated restraint by not utilizing it and instead coordinated with Officer Castro and Sergeant Thomas to employ physical control techniques to handcuff the suspect.

The UOFRB also noted that Sergeant Thomas correctly determined that the officers were having difficulty in handcuffing the suspect and assisted the officers in handcuffing the suspect since there were no other officers at the scene at the time. Sergeant Thomas' involvement was momentary and minimal in nature and he returned to a supervisory role once the suspect was in custody.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Sergeant Thomas, along with Officers Popham and Castro, while faced with similar circumstances, would believe that the same application of non-lethal force would be reasonable to overcome Outing's resistance.

Therefore, the Chief found Sergeant Thomas's, along with Officers Popham and Castro's Non-Lethal Use of Force to be objectively reasonable and In Policy, No Further Action.

Additional/Required Equipment

- **Required Equipment**

The investigation revealed that Officer Popham was not in possession of his Hobble Restraint Device. Captain S. Spell, Serial No. 30971, Commanding Officer, Central Patrol Division, advised that this issue was addressed through informal counseling at the divisional level. The Commanding Officer of Operations Central Bureau (OCB) and the Director of the Office of Operations (OO) concurred with this action. As such, the Chief deemed no further action is necessary.

- **Supervisor's Log**

The investigation revealed that the date of occurrence was noted incorrectly on the Sergeant's Daily Report completed by Detective II J. Verner, Serial No. 33441, Central Area Detectives. Captain Spell advised that this issue was addressed with informal counseling at the divisional level. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Transporting Injured Suspects/Arrestees/Inmates

- The investigation revealed that Officer Gelvin did not accompany the restrained suspect inside of the RA, nor did a police vehicle follow the RA during the suspect's transportation to the hospital. Officer Gelvin was initially inside of the RA with the restrained suspect but exited when an additional LAFD member entered the RA to assist with lifesaving procedures on Outing. Officer Gelvin requested that LAFD personnel notify him prior to transportation so that he could re-enter the RA and accompany them to the hospital. After several minutes of rendering lifesaving procedures, the LAFD decided to transport the suspect to the hospital, but due to the suspect's critical condition, they did not advise officers that they were leaving. Upon learning that an officer had not ridden in the RA or followed the RA to the hospital, Lieutenant Gillani directed an LAPD unit to respond directly to the hospital. Captain Spell advised that he addressed the importance of riding in an RA during the transport of a suspect through roll call training, supervisor's meetings and at the divisional supervisor training day. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Audio/Video Recordings

- **Digital In-Car Video System (DICVS)**

Multiple police vehicles equipped with DICV responded to this incident. All were found to be of no evidentiary value as they did not capture the use of force.

- **Body Worn Video (BWV)**

Officers Popham and Castro activated their BWVs, which captured their response to the scene as well as their verbal commands and non-lethal use of force. Sergeant Thomas activated his BWV, which captured his response and non-lethal force application.

- **Outside Video**

Two MTA security videos captured Outing pushing the juvenile victim onto the train tracks. Other MTA video captured Outing fleeing the scene after the assault and running up the stairway toward 5th Street and Hill Street.

Grimshaw's cellular phone video captured the four citizens holding Outing down, the arrival of the patrol officers and portions of the non-lethal force application.

Chief's Direction

- The Chief directed the Director of the Office of Support Services (OSS) to review and evaluate the current options for carrying the TASER by Department personnel.

Additionally, in an effort to enhance future tactical performance, the Chief directed the Director of OSS to publish a notice regarding the tactical considerations regarding the use of the X26 TASER with and without a TASER cartridge.

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INSPECTOR GENERAL REVIEW

Inspector General Analysis

Investigation Quality

- No significant issues of concern were identified in relation to investigation quality.

Training Issues

- No significant issues of concern were identified in relation to training.

Equipment Issues

- No significant issues of concern were identified in relation to equipment.

Detention

- The OIG concurs with the Chief's analysis.

Tactical De-Escalation

- The OIG concurs with the Chief's analysis.

Inspector General Recommendations

Tactics

- The OIG concurs with the Chief's findings.

Non-Lethal Use of Force

- The OIG concurs with the Chief's findings.

A handwritten signature in black ink, appearing to read 'M.P. Smith', with a long horizontal stroke extending to the right.

MARK P. SMITH
Inspector General